



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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March 30, 2015

Mr. Bill L. Tilkins
119 South Hadley Road
Fort Wayne, IN 46804

Re: Formal Complaint 15-FC-64; Alleged Violation of the Access to Public Records Act by the Fort Wayne City Utilities

Dear Mr. Tilkins,

This advisory opinion is in response to your formal complaint alleging the Fort Wayne City Utilities ("Utilities") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Utilities have not issued a response. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on February 20, 2015.

BACKGROUND

Your complaint dated February 19, 2015 alleges the Fort Wayne City Utilities violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On February 16, 2015, you submitted to the Utilities a public records request seeking the copies of records related to core sampling and street assessments being done in your neighborhood. In your complaint you contend the Utilities refused your request in violation of APRA.

ANALYSIS

The public policy of the APRA states that "a (p)roviding person with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. The Fort Wayne City Utilities is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the Utilities public records during regular business hours unless the records are protected

from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

Without benefit of a response from the Utilities, it is impossible to determine whether the information you seek would fall under any exclusionary categories of access. However, given you were informed the records would be made available to you, it would appear the information should not been excluded from access. Therefore, you are entitled to this information upon request. Pursuant to Ind. Code § 5-14-5-5, a public agency shall cooperate with the Public Access Counselor in his investigation. This has not happened, so I cannot determine why your request was refused.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Fort Wayne City Utilities has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor